



January 25, 2002

SENATE BILL No. 283

DIGEST OF SB 283 (Updated January 22, 2002 6:09 PM - DI 52)

Citations Affected: IC 5-11; IC 13-21; noncode.

Synopsis: Withdrawals from solid waste management districts. Eliminates the requirement for disclosure: (1) by a county of the reasons for withdrawal from a joint solid waste management district; and (2) by a joint district for removal of a county. Establishes the effective date of a withdrawal or removal of a county from a district. Requires a report on the existing legal obligations at the time of withdrawal or removal and establishes the responsibility for those obligations after withdrawal. Permits use by the joint district and the withdrawn or removed county of the existing district plan for not more than one year after withdrawal. Provides that the law as it exists before the amendments under this act continues to apply with respect to pending withdrawals and removals unless an election is made before May 1, 2002, to apply the law as amended by this act. Repeals provisions that: (1) require action by a joint district board to allow withdrawal by a county; and (2) void the withdrawal process if all necessary actions are not taken within one year.

Effective: Upon passage.

Gard

January 7, 2002, read first time and referred to Committee on Environmental Affairs.
January 24, 2002, amended, reported favorably — Do Pass.

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January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 283

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-11-1-9.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 9.7. (a) The state examiner, personally or**
4 **through the deputy examiners, field examiners, or private**
5 **examiners, shall examine the division under IC 13-21-4-4 of the**
6 **responsibility for legal obligations entered into by a joint solid**
7 **waste management district upon the withdrawal or removal of a**
8 **county from the district.**

9 **(b) Not later than one hundred twenty (120) days after the**
10 **effective date of the withdrawal or removal, the state examiner**
11 **shall issue a report of the examination under subsection (a) to:**

12 **(1) the board of directors of the joint solid waste management**
13 **district; and**

14 **(2) the executive of the county that withdrew or was removed**
15 **from the joint solid waste management district.**

16 **(c) A report under this section may be used as evidence in an**
17 **action seeking to enforce the payment of legal obligations entered**

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into by a joint solid waste management district.

SECTION 2. IC 13-21-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) If a county seeks to withdraw from a joint district that consists of more than two (2) counties, the county executive must adopt and submit a resolution to the board of the joint district and to the commissioner that specifies the following:

(1) that the county ~~seeks to withdraw~~ **withdraws** from the joint district.

(2) ~~The reasons for the withdrawal.~~

(b) If a county seeks to withdraw from and dissolve a joint district that consists of only two (2) counties, the county executive must adopt and submit a resolution to the county executive of the other county and to the commissioner that specifies the following:

(1) that the county ~~seeks to withdraw~~ **withdraws** from and ~~dissolve~~ **dissolves** the joint district.

(2) ~~The reasons for the withdrawal and dissolution.~~

(c) If a joint district that consists of more than two (2) counties seeks to remove a county from the joint district, the county executive of each county that would remain in the joint district after the county is removed must adopt and submit a resolution to the county executive of the county that would be removed and to the commissioner that specifies the following:

(1) that the joint district ~~seeks to remove~~ **removes** the county from the joint district.

(2) ~~The reasons for the removal.~~

SECTION 3. IC 13-21-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) **The withdrawal of a county from a joint district is effective upon:**

(1) the later of:

(A) the date of delivery of a resolution adopted under section (2)(a) of this chapter to the board of the joint district; or

(B) the effective date specified in the resolution referred to in clause (A); or

(2) the later of:

(A) the date of delivery of a resolution adopted under section (2)(b) of this chapter to the county executive of the other county; or

(B) the effective date specified in the resolution referred to in clause (A).



(b) The removal of a county from a joint district is effective upon the later of:

(1) the latest date of delivery of a resolution adopted under section (2)(c) of this chapter to the county executive of the county that would be removed; or

(2) the effective date specified in the resolution referred to in subdivision (1).

SECTION 4. IC 13-21-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A county executive of a county withdrawing from the district or the county executive of each county that would remain in a joint district after a county is removed from the district that adopts and submits a resolution described in section 2 of this chapter shall prepare or pay for the preparation of an analysis concerning the ~~financial impact on~~ legal obligations of:

(1) the joint district; and

(2) each county located in the joint district, including the county that would withdraw or be removed from the joint district;

that would ~~occur if remain after~~ the county withdraws from the joint district or the joint district removes the county.

(b) A copy of the ~~financial impact~~ analysis shall be submitted to:

(1) the county executive of each county involved in the withdrawal or removal of a county from a joint district; and

(2) the commissioner;

not more than ninety (90) days after the date a resolution is adopted under section 2 of this chapter **takes effect**.

SECTION 5. IC 13-21-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection ~~(b)~~, (c), if a county withdraws from or is removed from a joint district that consists of more than two (2) counties, the county is responsible for ~~all its share of the~~ legal obligations:

(1) entered into by the joint district before the **September 20 that last precedes the date the resolution adopted under section 2 of this chapter for the county's withdrawal or removal from the joint district takes effect; as if the county were still a member of the joint district. These and**

(2) payable before the second January 1 that succeeds the September 20 referred to in subdivision (1).

(b) The legal obligations referred to in subsection (a) include the following:

(1) Contracts entered into by the joint district.



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(2) Repayment of loan agreements entered into by the joint district.

(3) Payment of bonds issued by the joint district.

(4) Any other legal obligation entered into by the joint district.

~~(b)~~ (c) If a joint district consists of more than two (2) counties, the county executive of the county that withdraws or is removed from the joint district and the board of the joint district ~~may~~ **shall, not more than sixty (60) days after the date the state examiner issues a report under IC 5-11-1-9.7(b) with respect to the withdrawal or removal,** enter into a written agreement that specifies the legal obligations of the county and the joint district after the date the **resolution adopted under section 2 of this chapter for the** withdrawal or removal of the county takes effect. A copy of the agreement shall be submitted to the commissioner.

~~(c)~~ (d) If a joint district consists of only two (2) counties:

(1) each county is ~~jointly~~ responsible for ~~all its share of the~~ legal obligations entered into by the joint district before the date the joint district is dissolved; and

(2) the county executive of each county shall enter into a written agreement concerning the division of the joint district's assets.

A copy of the agreement shall be submitted to the commissioner.

SECTION 6. IC 13-21-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. After a ~~financial impact~~ **an** analysis described in section 3 of this chapter has been completed and the terms of any agreement have been tentatively agreed to under section 4(b) or 4(c) of this chapter, a public meeting must be held, **not later than forty-five (45) days after the date the tentative agreement is reached,** by:

(1) the county executive of each county located in the joint district; and

(2) the board of the joint district;

that concerns the ~~withdrawal or removal of the county from the joint district; the financial impact on remaining legal obligations of the~~ joint district and each county located in the joint district and the terms of the tentative agreement. **Each of the county executives may hold a public meeting required under this section individually or jointly with one (1) or more other county executives, the board of the joint district, or both. The board of the joint district may hold a public meeting required under this section individually or jointly with one (1) or more county executives.**

SECTION 7. IC 13-21-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If a county

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~~seeks to withdraw~~ **withdraws** from or the county executives of a joint district ~~desire to~~ remove a county from a joint district, the county must:

- (1) designate itself as a new county district;
- (2) join one (1) or more other counties to form a new joint district;
- or
- (3) join an existing joint district;

under the procedures set forth in IC 13-21-3.

(b) If a county:

- (1) designates itself as a new county district; or
- (2) joins one (1) or more other counties to form a new joint district;

the county district or new joint district shall submit a district plan to the commissioner as provided under IC 13-21-5.

(c) If a county joins an existing joint district, the joint district shall amend the joint district's district plan as provided under IC 13-21-5.

(d) If a county withdraws or is removed from a joint district that consists of more than two (2) counties, the joint district shall amend the joint district's district plan as provided under IC 13-21-5.

SECTION 8. IC 13-21-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A district plan described under section 6(b) of this chapter must be adopted by the:

- (1) county executive of the county located in the new county district; or
- (2) county executive of each county located in the new joint district;

~~before not later than sixty (60) days after the date the county withdraws or is removed from the joint district~~ **plan is filed with the commissioner under IC 13-21-5-21.**

SECTION 9. IC 13-21-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) If a county seeks to withdraw from a joint district or a joint district seeks to remove a county from the joint district under IC 13-21-4 and the county:

- (1) designates itself as a county district;
- (2) joins into an existing joint district; or
- (3) joins with one (1) or more other counties in establishing a new joint district;

the county district or the joint district shall comply with this section.

(b) If a county that withdraws from a joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than ~~twenty (20) days~~ **one (1) year** after the ~~passage of date~~ the

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~~ordinance; resolution adopted under IC 13-21-4-2 for the county's withdrawal from the joint district takes effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan is not filed the withdrawal of the county from the joint district under IC 13-21-4 is not effective; with the commissioner not later than one (1) year after the effective date of the resolution, the commissioner may adopt a district plan for the new county district.~~

(c) If a county that is removed by a joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than one ~~hundred twenty (120) days~~ **(1) year** after the ~~passage of date~~ the ~~ordinance; resolution adopted under IC 13-21-4-2 for the county's removal from the joint district takes effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter.~~ If the board fails to file the district plan with the commissioner not later than one ~~hundred twenty (120) days~~ **(1) year** after the ~~passage effective date~~ of the ~~ordinance; resolution~~, the commissioner may adopt a district plan for the new county district.

(d) If a county joins into an existing joint district, the board of the joint district:

- (1) must approve the addition of the county to the district;
- (2) shall amend the district plan to include the additional county; and
- (3) shall file the amended district plan with the commissioner not later than ~~thirty (30) days~~ **one (1) year** after the addition of the county to the district.

The district plan of the joint district continues to serve as the plan for the new joint district until the date the amended district plan is approved under this chapter. If the ~~board fails to file the~~ amended district plan is not filed, the removal or withdrawal of the county under ~~IC 13-21-4 is not effective; with the commissioner not later than one (1) year after the addition of the county to the district, the commissioner may adopt a district plan for the new joint district.~~

(e) If a county joins in establishing a new joint district, the board of the new joint district shall, not later than ~~thirty (30) days~~ **one (1) year** after:

- (1) the adoption of an ordinance establishing the joint district; and



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(2) approving an agreement governing the operation of the joint district;
 file a new district plan with the commissioner. If the ~~district plan is not filed, the removal or withdrawal of the county under IC 13-21-4 is not effective.~~ **board fails to file the new district plan with the commissioner not later than one (1) year after the adoption and approval under subdivisions (1) and (2), the commissioner may adopt a district plan for the new joint district.**

(f) If a county withdraws from a joint district that consists of more than two (2) counties, the board of the joint district shall:

(1) restructure the joint district's board under IC 13-21-3 **not later than forty-five (45) days; and**

(2) amend the district plan under sections 1 through 7 of this chapter and ~~(3) submit file~~ the amended district plan ~~to with~~ the commissioner not later than ~~twenty (20) days~~ **one (1) year;**

after the date a new district plan or amended district plan involving the county that withdrew from the joint district is approved under this section: ~~the resolution adopted under IC 13-21-4-2 for the county's withdrawal from the joint district takes effect.~~ **The district plan of the joint district continues to serve as the plan for the new joint district to the extent the terms of the plan apply to the new joint district until the amended plan of the new joint district is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the effective date of the resolution, the commissioner may adopt a district plan for the new joint district.**

(g) If a county is removed from a joint district that consists of more than two (2) counties, the board of the joint district shall:

(1) restructure the joint district's board under IC 13-21-3 **not later than forty-five (45) days; and**

(2) amend the district plan under sections 1 through 7 of this chapter and ~~(3) submit file~~ the amended district plan ~~to with~~ the commissioner not later than one ~~hundred twenty (120) days~~ **(1) year;**

after the date a new district plan or amended district plan involving the county that was removed from the joint district is approved under this section: ~~the resolution adopted under IC 13-21-4-2 for the county's removal from the joint district takes effect.~~ **The district plan of the joint district continues to serve as the plan for the new joint district to the extent the terms of the plan apply to the new joint district until the amended plan of the new joint district is approved under this chapter. If the board fails to file the amended district plan with**



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1 the commissioner not later than one (1) year after the effective date
 2 of the resolution, the commissioner may adopt a district plan for
 3 the new joint district.

4 (h) A district plan adopted under this section is considered approved
 5 unless the commissioner notifies the district in writing not later than
 6 thirty (30) days after the district plan is filed with the commissioner
 7 that the district plan fails to comply with the state plan. The notice
 8 provided by the commissioner must include comments concerning
 9 changes to the district plan that would make the district plan
 10 acceptable.

11 (i) With respect to a joint district that consists of only two (2)
 12 counties, if the county other than the county that withdraws from
 13 the joint district designates itself as a county district, the board
 14 appointed for the new county district under IC 13-21-3-4 shall file
 15 a district plan with the commissioner not later than one (1) year
 16 after the date the resolution adopted under IC 13-21-4-2 for the
 17 withdrawal from the joint district takes effect. The district plan of
 18 the joint district continues to serve as the plan for the new county
 19 district to the extent the terms of the plan apply to the new county
 20 district until the plan of the new county district is approved under
 21 this chapter. If the board fails to file the district plan with the
 22 commissioner not later than one (1) year after the effective date of
 23 the resolution, the commissioner may adopt a district plan for the
 24 new county district.

25 SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE
 26 UPON PASSAGE]: IC 13-21-4-8; IC 13-21-4-9.

27 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) Except as
 28 provided in this SECTION, IC 13-21-4 and IC 13-21-5, both as in
 29 effect before the effective date of this act, apply to all solid waste
 30 management district withdrawal, withdrawal and dissolution, or
 31 removal proceedings of all counties that comprise a solid waste
 32 management district if:

33 (1) a county has, by adoption of a resolution by the county
 34 executive before the effective date of this act, determined to:

35 (A) withdraw from a joint solid waste management district
 36 consisting of more than two (2) counties under
 37 IC 13-21-4-2(a); or

38 (B) withdraw from and dissolve a joint solid waste
 39 management district consisting of only two (2) counties
 40 under IC 13-21-4-2(b); or

41 (2) two (2) or more counties that are part of a joint solid waste
 42 management district have, by adoption of a resolution by the

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1 executives of each county before the effective date of this act,
2 determined to remove a county from the joint district under
3 IC 13-21-4-2(c).

4 (b) A county referred to in subsection (a)(1) may, by adoption
5 of a resolution by the county executive before May 1, 2002, make
6 an election to proceed with the withdrawal or the withdrawal and
7 dissolution under IC 13-21-4 and IC 13-21-5, both as amended by
8 this act. After a county makes an election under this subsection to
9 proceed under IC 13-21-4 and IC 13-21-5, both as amended by this
10 act, all counties that comprise the solid waste management district
11 shall proceed with the withdrawal or the withdrawal and
12 dissolution under IC 13-21-4 and IC 13-21-5, both as amended by
13 this act.

14 (c) Two (2) or more counties referred to in subsection (a)(2)
15 may, by adoption of a resolution by the executives of each county
16 before May 1, 2002, make an election to proceed with the removal
17 under IC 13-21-4 and IC 13-21-5, both as amended by this act.
18 After a county makes an election under this subsection to proceed
19 under IC 13-21-4 and IC 13-21-5, both as amended by this act, all
20 counties that comprise the solid waste management district shall
21 proceed with the removal under IC 13-21-4 and IC 13-21-5, both
22 as amended by this act.

23 (d) This SECTION expires January 1, 2004.

24 SECTION 12. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 283, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, delete "The" and insert "**Not later than one hundred twenty (120) days after the effective date of the withdrawal or removal, the**".

Page 4, line 6, strike "may" and insert "**shall, not more than sixty (60) days after the date the state examiner issues a report under IC 5-11-1-9.7(b) with respect to the withdrawal or removal,**".

Page 4, line 23, after "held" insert ", **not later than forty-five (45) days after the date the tentative agreement is reached,**".

Page 4, line 30, after "agreement." insert "**Each of the county executives may hold a public meeting required under this section individually or jointly with one (1) or more other county executives, the board of the joint district, or both. The board of the joint district may hold a public meeting required under this section individually or jointly with one (1) or more county executives.**".

Page 7, after line 42, begin a new paragraph and insert:

"(i) With respect to a joint district that consists of only two (2) counties, if the county other than the county that withdraws from the joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the resolution adopted under IC 13-21-4-2 for the withdrawal from the joint district takes effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the resolution, the commissioner may adopt a district plan for the new county district."

Page 8, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE UPON PASSAGE] (a) Except as provided in this SECTION, IC 13-21-4 and IC 13-21-5, both as in effect before the effective date of this act, apply to all solid waste management district withdrawal, withdrawal and dissolution, or removal proceedings of all counties that comprise a solid waste management district if:

(1) a county has, by adoption of a resolution by the county

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executive before the effective date of this act, determined to:

(A) withdraw from a joint solid waste management district consisting of more than two (2) counties under IC 13-21-4-2(a); or

(B) withdraw from and dissolve a joint solid waste management district consisting of only two (2) counties under IC 13-21-4-2(b); or

(2) two (2) or more counties that are part of a joint solid waste management district have, by adoption of a resolution by the executives of each county before the effective date of this act, determined to remove a county from the joint district under IC 13-21-4-2(c).

(b) A county referred to in subsection (a)(1) may, by adoption of a resolution by the county executive before May 1, 2002, make an election to proceed with the withdrawal or the withdrawal and dissolution under IC 13-21-4 and IC 13-21-5, both as amended by this act. After a county makes an election under this subsection to proceed under IC 13-21-4 and IC 13-21-5, both as amended by this act, all counties that comprise the solid waste management district shall proceed with the withdrawal or the withdrawal and dissolution under IC 13-21-4 and IC 13-21-5, both as amended by this act.

(c) Two (2) or more counties referred to in subsection (a)(2) may, by adoption of a resolution by the executives of each county before May 1, 2002, make an election to proceed with the removal under IC 13-21-4 and IC 13-21-5, both as amended by this act. After a county makes an election under this subsection to proceed under IC 13-21-4 and IC 13-21-5, both as amended by this act, all counties that comprise the solid waste management district shall proceed with the removal under IC 13-21-4 and IC 13-21-5, both as amended by this act.

(d) This SECTION expires January 1, 2004."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 283 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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